

Date of decision: March 8,1996

For Approval and Signature:

The Hon'ble Mr.Justice N.J.Pandya

The Hon'ble Mr.Justice A.R.Dave

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or ..

thereunder?

5. Whether it is to be circulated to the Civil Judge?

Mr.D.F.Amin, L.A. for the appellant
R.H.Mehta, L.A. for respondents 3 & 6
Respondents 6 to 8 served
Respondents 1 & 2 not served.

Coram: N.J.Pandya & A.R.Dave, JJ.

March 8,1996

ORAL JUDGMENT (Per N.J.Pandya,J.)

The appeal is by one of the claimants out of the group of matters that came to be disposed of by Motor Accident Claims Tribunal, Valsad at Navsari on 25-8-1983. The claimants are widow and two minor children of deceased Sulaiman Ismail, who died in a vehicular

accident which took place on 4-11-1980 at about 4.00 p.m.

2. Two vehicles were involved in the incident. They were Truck No.GTG3742 and Truck No.GTG 3546. Both trucks are insured with one and the same Company. It is a case of head on collision.

3. The deceased was working as a cleaner in Truck No.GTG3546. So far as he is concerned, therefore, it is a case of composite negligence.

4. The age of the claimant was said to be about 27 years and his monthly income was claimed to be Rs.610/per month. The break-up given was his salary as a cleaner was Rs.300/- and he was earning approximately Rs.200/- by way of daily allowance and Rs.100/- from other sources.

5. The aforesaid claim of monthly earning appears to be exaggerated. But we have to consider the fact that a man aged about 27 years working as a cleaner on a truck would certainly look forward to improve his prospects and being in the line, he would certainly aspire to be a driver and then he will certainly earn much more. Accordingly, if we take for our purpose, instead of the said figure of Rs.300/-, as done by the Tribunal, the likely income of rs.600/- for working out the compensation to be awarded to the widow and two minor children, in our opinion, interest of justice will be served.

6. Out of the said figure, a sum of Rs.,200/- should be deducted towards the amount spent by the claimant upon himself which will leave balance of Rs.400/- to be taken as dependency figure. Even on unit basis this will be the position. Now, looking to the age of the deceased as well as the age of the claimants on the aforesaid basis, multiple of 15 will have to be given and therefore, the figure that comes out by way of future economic loss is Rs.72,000/-. Rs.2,000/- towards expenses are given by the Tribunal and Rs.5,000/- towards conventional amount being paid on account of death. This figure is required to be upgraded to Rs.10,000/-. Thus, the total amount payable will come to Rs.84,000/-.

7. No doubt, the claim as originally filed before the Tribunal was for Rs.1,20,000/-. In the appeal it has been restricted to Rs.80,000/-. The entire claim in the appeal is therefore, awarded.

8. For the additional amount awarded, interest at the rate of 12% per annum will be payable from the date of the appeal till realisation. The amount is awarded with proportionate cost.

9. Rs.6,000/- with proportionate interest on that amount and the entire amount of cost will be paid in cash to the claimants and the remaining sum of Rs.40,000/ will be divided into 3 parts, Rs.10,000/- each for the minor claimants who might have become now major and the remaining sum of Rs.20,000/- for the widow. These three amounts Namely Rs.10,000/- each for the two children and Rs.20,000/- for the widow shall be invested for a period of 5 years in any nationalised bank with usual terms as to payment of interest to the claimants periodically and embargo on encashing the investment without the permission of the Court. The appeal is allowed accordingly.
